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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,) No. CR-09-00670 JW
12)
13 Plaintiff,) STIPULATION AND [PROPOSED] ORDER CONTINUING *June 7th*
14 vs.) HEARING DATE AND EXCLUDING TIME UNDER THE
15) SPEEDY TRIAL ACT
16 DAVID RUSSELL FOLEY,)
17)
18 Defendant.)
19 _____)

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21 **STIPULATION**
22 Defendant David Russell Foley, by and through Assistant Federal Public Defender Lara
23 Vinnard, and the United States, by and through Assistant United States Attorney Richard Cheng,
24 hereby stipulate that, with the Court's approval, the status hearing currently set for Monday, June
25 7, 2010, shall be continued to Monday, June 14, 2010, at 1:30 p.m.

26 The reason for the requested continuance is that Samuel Shepherd, an attorney at
27 Greenberg Traurig, LLP, has advised Assistant Federal Public Defender Nicholas Humy that he
28 intends to substitute in as counsel for Mr. Foley. Mr. Shepherd intends to put the matter on
29 calendar before the Magistrate Judge for identification of counsel, and has requested that the

1 status conference be continued for one week, to enable him to make a general appearance before
2 the Magistrate prior to the status conference.

3 The parties agree that the time between June 7, 2010, and June 14, 2010, is excludable
4 under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), for effective preparation by
5 defense counsel.

6 IT IS SO STIPULATED.

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8 Dated: May 28, 2010

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10 NICHOLAS P. HOMY
11 Assistant Federal Public Defender

12 Dated: May 28, 2010

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14 RICHARD CHENG
15 Assistant United States Attorney

16 GOOD CAUSE APPEARING, upon stipulation of the parties, IT IS HEREBY
17 ORDERED that the status hearing shall be continued from Monday, June 7, 2010, to Monday,
18 June 14, 2010, at 1:30 p.m.

19 THE COURT FINDS that failing to exclude the time between June 7, 2010, and June 14,
20 2010, would unreasonably deny defense counsel the reasonable time necessary for effective
21 preparation, taking into account the exercise of due diligence. See 18 U.S.C. §
22 3161(h)(7)(B)(iv).

23 THE COURT FURTHER FINDS that the ends of justice served by excluding the time
24 between June 7, 2010, and June 14, 2010, from computation under the Speedy Trial Act
25 outweigh the interests of the public and the defendant in a speedy trial.

26 THEREFORE, IT IS HEREBY ORDERED that the time between June 7, 2010, and June

1 14, 2010, shall be excluded from computation under the Speedy Trial Act, 18 U.S.C. §
2 3161(h)(7)(A) and (B)(iv).

3 IT IS SO ORDERED.

4 Dated: June 1, 2010

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6 THE HONORABLE JAMES WARE
7 United States District Court

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